

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

MASSACHUSETTS DEVELOPMENT)	
FINANCE AGENCY)	
Plaintiff)	
)	
v.)	
)	
ADP MARSHALL, INC., a FLUOR)	
DANIEL COMPANY, and FIREMAN'S)	
FUND INSURANCE COMPANY)	
<u>Defendants</u>)	
)	
ADP MARSHALL, INC.)	
Plaintiff in Counterclaim)	
)	
v.)	
)	
MASSACHUSETTS DEVELOPMENT)	
FINANCE AGENCY)	
<u>Defendant in Counterclaim</u>)	
)	
ADP Marshall, Inc.)	
Third Party Plaintiff)	
)	
v.)	
ALLIED CONSULTING ENGINEERING)	
SERVICES, INC. ANDOVER)	
CONTROLS)	
CORPORATION, R & R WINDOW)	
CONTRACTORS, INC., AND DELTA)	
KEYSPAN, INC. N/K/A DELTA)	
KEYSPAN, LLC, MADDISON)	
ASSOCIATES, INC., UNITED STATES)	
FIDELITY AND GUARANTY COMPANY)	
FIDELITY AND DEPOSIT COMPANY)	
OF MARYLAND, NATIONAL GRANGE)	
MUTUAL INSURANCE COMPANY,)	
TRAVELERS CASUALTY AND SURETY)	
COMPANY OF AMERICA, AMERICAN)	
HOME ASSURANCE COMPANY,)	
HARTFORD ROOFING COMPANY,)	
INC., and SPAGNOLO/GISNESS &)	
ASSOCIATES, INC.)	
<u>Third Party Defendants.</u>)	

C.A. No.: CV 10203 PBS

**PRETRIAL DISCLOSURES OF THE PLAINTIFF, MASSDEVELOPMENT
FINANCE AGENCY, PURSUANT TO FED. R. CIV. P. 26(a)(3)**

Plaintiff, MassDevelopment Finance Agency (hereinafter “MassDevelopment”) hereby makes the following pre-trial disclosures pursuant to the Federal Rules of Civil procedure and in accordance with this Honorable Court’s Pre-Trial Order set forth on April 11, 2005:

(A) Witnesses

1. Mr. William M. Whelan, c/o Whelan Associates LLC, Faunce Corner Executive Center, Building 100 – Suite 150, 500 Faunce Corner Road, North Dartmouth, Massachusetts served as Project Manager on the Project for MassDevelopment. Subject of testimony: Duties and responsibilities as Property Manager on the Project for MassDevelopment; defective work on the Project to include but not be limited to leaking windows on each level of the tenant spaces, and, leaks in the curtain wall in the knuckle of the building; significant problems with the Heating Ventilation and Air Conditioning (HVAC) system and hot water heating system; notification to ADP Marshall Inc. (hereinafter “ADP”) of the defective work; refusal by ADP to repair said deficiencies; damages.
2. Mr. Robert Greetham, c/o ADP Marshall, Inc., 75 Newman Avenue, Rumford, RI, served as Project Manager for ADP on the Project. Subject of testimony: Duties and responsibilities as Project Manager for ADP; defective work on the Project to include but not be limited to leaking windows on each level of the tenant spaces, and, leaks in the curtain wall in the knuckle of the building; significant problems with the Heating Ventilation and Air Conditioning (HVAC) system and hot water heating system; receipt of notification of the defective work; refusal by ADP to repair said deficiencies.
3. Mr. Neal Hannon, c/o The Hannon Company, 477 Main Street, Yarmouth Port, MA, served as Property Manager on the Project; Subject of testimony: Duties and responsibilities as Property Manager for MassDevelopment on the Project; defective work on the Project to include but not be limited to leaking windows on each level of the tenant spaces, and, leaks in the curtain wall in the knuckle of the building; significant problems with the HVAC

System and hot water heating system; refusal by ADP to repair said deficiencies; notification of defective work to ADP.

4. Ms. Leslie Glynn c/o Symmes, Maini & McKee Associates (hereinafter "SMMA"), 1000 Massachusetts Avenue, Cambridge, MA served as Project Director for SMMA on the Project. Subject of testimony: Duties and responsibilities as Project Director; design of the schematic program for MassDevelopment on the Project; communications with ADP; defective work on the Project to include but not be limited to leaking windows on each level of the tenant spaces, and, leaks in the curtain wall in the knuckle of the building; significant problems with the Heating Ventilation and Air Conditioning (HVAC) system and hot water heating system; refusal by ADP to repair said deficiencies; notification to ADP of the defective work.
 5. Charles Vaciliou, Vice President/Project Executive of Erland Construction, Inc. (hereinafter "Erland"), 83 Second Avenue, Burlington, MA. Subject of testimony: design of the schematic program for MassDevelopment on the Project; communications with ADP; defective work on the Project to include but not be limited to leaking windows on each level of the tenant spaces, and, leaks in the curtain wall in the knuckle of the building; significant problems with the Heating Ventilation and Air Conditioning (HVAC) system and hot water heating system; refusal by ADP to repair said deficiencies; notification to ADP of the defective work.
 6. Stephen J. Wessling, Principal-CEO, Stephen J. Wessling Architects, inc., 40 Willard Street, Suite 102, Quincy, MA 02169. Subject of testimony: MassDevelopment incorporates herein by reference its Expert Designations and Expert Disclosure submitted pursuant to the Federal Rules of Civil Procedure.
 7. Richard J. Comeau, President and Treasurer, Richard J. Comeau Engineers, Inc., 34 West Road, Orleans, MA 02653. MassDevelopment incorporates herein by reference its Expert Designations and Expert Disclosure submitted pursuant to the Federal Rules of Civil Procedure.
- (B) Designation of Witnesses Whose Testimony is Expected to be Presented by Deposition.
1. None.

(C) Identification of Documents or other Exhibits:

1. Contract between ADP Marshall, Inc. and MassDevelopment
2. All Requests for Information (RFIs), Changer Orders, Construction Change Directives.
3. All correspondence between the parties.
4. Surety Bond of Fireman's Fund Insurance Company.
5. Architectural Drawings dated 12/27/00.
6. Maddison Associates, Inc. Drawings dated 12/8/00.
7. R&R Window Contractors, Inc. Drawings dated 2/2/01.
8. Architectural Drawings dated 6/22/04.
9. Architectural Drawings dated 05/02/03.
10. ATMC¹ Request for Proposals (RFP) Specifications-Dated 04/03/2000.
11. ATMC RFP Volume #1 - Dated 04/03/2000.
12. ATMC RFP Volume #1 - Updated 05/05/2000.
13. ATMC - LAB FITUP Bulletin No. 2, tagged event #0070.
14. Heating Ventilation Air Conditioning Specification – Dated 01/15/01.
15. ATMC – Various Equipment Operating & Maintenance Manuals
 - Trane Equipment
 - Pump Equipment
 - Gas Fired Hot Water Boilers
 - Motor Starters
 - Unit Heaters and Fan Coil Units
 - Fans
 - VAV Boxes
 - Hydronic Reheat Coils
16. Automatic temperature controls – operation and maintenance manual

¹ Advanced Manufacturing Technology Center, Fall River, MA.

17. HVAC System Design Drawings (All drawings are stamped as-built 11/22/02)

DRAWING NUMBER	DRAWING NAME
20043-H1.1	HVAC FIRST, SECOND & ROOF DUCT PLANS - REV. 2 06/05/01
20043-H1.2	HVAC PENTHOUSE & ROOF DUCT PLANS - REV. 2 06/05/01
20043-H1.3	HVAC CORE DUCT PLAN - REV. 2 06/05/01
20043-H2.1	HVAC FIRST, SECOND & ROOF PIPING PLANS - REV. 2 06/05/01
20043-H2.2	HVAC PENTHOUSE & ROOF PIPING PLANS - REV. 2 06/05/01
20043-H3.1	HVAC SCHEDULES & DETAILS - REV. 2 06/05/01
20043-H3.2	HVAC DETAILS - REV. 2 06/05/01
20043-H4.1	ATMC HVAC SCHEMATICS - REV. 2 06/05/01

TENANT DEVELOPMENT WORK:

20013-H1	HVAC - WEST WING FIRST FLOOR - DATED 05-17-01
20013-H3	HVAC - EAST WING FIRST FLOOR - DATED 05-17-01

18. Photographic Report of Stephen J. Wessling.

19. Project Punchlist.

20. MassDevelopment incorporates herein by reference its Expert Designations and Expert Disclosure submitted pursuant to the Federal Rules of Civil Procedure.

Respectfully Submitted,
MASSACHUSETTS DEVELOPMENT
FINANCE AGENCY
By its attorneys,

//s// Sabatino F. Leo

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CERTIFICATE OF SERVICE

I, Sabatino F. Leo, Esquire, hereby certify that I have, on this 1st day of July served a copy of the within on all counsel of record.

//s// Sabatino F. Leo